

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

TIMOTHY F.L. HAYES, a resident of the United Kingdom,	)	
	)	
	)	
	)	
Plaintiff,	)	
	)	
	)	
	)	
v.	)	
	)	
FIRST CHICAGO MORTGAGE CO., an Illinois corporation, JASON J. LAMBERT, an Illinois resident, KROLL FACTUAL DATA CORPORATION, a Colorado corporation, JOHN DOES 1-5, and ABC COPORATIONS 1-5,	)	
	)	
	)	
Defendants.	)	

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Case No. 08 C 632

**PLAINTIFF'S RESPONSE AND  
OPPOSITION TO DEFENDANT  
KROLL FACTUAL DATA'S  
MOTION TO DISMISS**

**PLAINTIFF TIMOTHY F. L. HAYES' RESPONSE AND OPPOSITION TO  
DEFENDANT KROLL'S MOTION TO DISMISS**

Plaintiff, TIMOTHY F. L. HAYES, by and through its undersigned counsel, Mengedoth Law Firm LLC and The Law Offices of Keith J. Keogh, Ltd., respectfully opposes *Defendant Kroll Factual Data Corporation's Motion to Dismiss Plaintiff's Complaint* pursuant to FRCP 12(b)(6). [Doc. # 15] In response, Plaintiff Hayes submits its Memorandum of Law, filed herewith.

1. Plaintiff alleges in the Complaint that the respective defendants pulled and/or released his personal credit information on or about February 25, 2007 without a permissible purpose to do so. Plaintiff specifically alleges that Defendant Kroll negligently and/or willfully released his personal credit information in violation of the federal Fair Credit Reporting Act ("FCRA")(Count I), such act was an invasion of Plaintiff's privacy under the common law of the State of Illinois (Count II), Defendant Kroll was negligent under the common law of the State of Illinois (Count III), and such

act violated the Illinois Consumer Fraud and Deceptive Business Practices Act (“ICFA”)(Count IV).

2. Defendant Kroll contends that not a single portion of Plaintiff’s Complaint provides it sufficient notice pursuant to Federal Rule of Civil Procedure 8(a). Plaintiff’s complaint as to each count, however, is more than adequate and does comply with FRCP 8(a) pleading standards. As noted in Plaintiff’s accompanying Memorandum of Law, Defendant Kroll attempts through its motion to: (A) gloss over the FCRA’s explicit statutory liability for Kroll’s impermissible release and obtaining of Plaintiff’s personal credit information under 15 U.S.C. § 1681b, (B) misapplies the very narrow instance in which the FCRA preempts state law claims, (C) incorrectly contends Plaintiff’s allegations of Kroll’s unfair business conduct under the ICFA must be pled with particularity under FRCP 9(b), and (D) flatly ignores facts clearly set forth in Plaintiff’s Complaint alleging the “when” and “how” which are sufficient for ICFA claims of deception pursuant to FRCP 9(b).

WHEREFORE, for the reasons stated above and set out more fully in Plaintiff Hayes’ *Memorandum of Law in Opposition to Defendant Kroll’s Motion to Dismiss*, Plaintiff Hayes respectfully requests that this Court enter an order denying the entirety of Defendant Kroll’s motion.

DATED this 17th day of April 2008.

Respectfully submitted,

**MENGEDOTH LAW FIRM LLC**

/s Paul B. Mengedoth  
Paul B. Mengedoth (AZ Bar No. 18507) (*pro  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 17, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to each of the following:

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